

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE LITIGATION)	Master File No. 01-12257-PBS
)	Judge Patti B. Saris
)	
THIS DOCUMENT RELATES TO:)	
State of California, ex rel. Ven-A-Care v. Abbott)	
Laboratories, et al.)	
Case No!: 1:03-cv-11226-PBS)	
)	

STATE OF CALIFORNIA'S AND RELATOR'S STATEMENT OF POSITION
REGARDING CERTIFICATION OF CLASS

As the Court is aware, there are a multitude of states that have filed or are considering filing claims relating to pharmaceutical price inflation that have caused state Medicaid programs to suffer damages. The State of California's lawsuit involving false claims in California's Medicaid program (Medi-Cal) is pending before this Court and other cases are filed in various state and federal courts. Damages have been incurred by both state governments and the federal government, since Medicaid is a joint state-federal program. The proposed class definition in the MDL action specifically excludes governmental entities, but the definition is inartfully drafted and California wanted to ensure that this important provision is not overlooked in the certification proceedings and possible certification order by the Court. Accordingly, California proposes that any order certifying a class provide as follows: Class shall not include any governmental entities for damages incurred by such entities, including but not limited to state Medicaid programs.

Although the States of Florida and Texas are not parties to this MDL, they have authorized the State of California and Relator to represent that they join in this Statement of Position.

Respectfully submitted,

BILL LOCKYER
Attorney General for the State of California

Dated: February 10, 2005.



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CERTIFICATE OF SERVICE

I, Timothy C. Foote, hereby certify that on February 10, 2005, I caused a true and correct copy of the foregoing, STATE OF CALIFORNIA'S AND RELATOR'S STATEMENT OF POSITION REGARDING CERTIFICATION OF CLASS, to be served on all counsel of record by electronic service pursuant to paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification of all parties and by mailing a true and correct copy to:

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